

R13-125
A SHARED SERVICES AGREEMENT BY AND BETWEEN
THE TOWNSHIP OF PENNSAUKEN AND THE BOROUGH
OF MERCHANTVILLE FOR FLEET MAINTENANCE

THIS DOCUMENT constitutes an Shared Services Agreement pursuant to N.J.S.A. 40A:65-1 et seq. entered into by and between the Borough of Merchantville, a body politic and corporate of the State of New Jersey with offices located at 1 West Maple Avenue, Merchantville, New Jersey 08109, and the Township of Pennsauken, a body politic and corporate of the State of New Jersey with offices located at 5605 North Crescent Boulevard, Pennsauken, New Jersey 08110. The date of the execution of this Agreement is the _____ day of November 2013.

W I T N E S S E T H

WHEREAS, the Borough of Merchantville (hereinafter “Merchantville” or “Borough”) is a municipal entity organized under the laws of the State of New Jersey and located in Camden County; and

WHEREAS, the Township of Pennsauken (hereinafter “Pennsauken” or “Township”) is a municipal entity organized under the laws of the State of New Jersey and located in Camden County; and

WHEREAS, N.J.S.A. 40A:65-1, et seq., which is designed to promote economy and efficiency in government by fostering the joint provision of governmental services by local units, permits a municipality to enter into a contract with another governmental entity within its jurisdiction for any service which any party to the agreement is empowered to render within its own jurisdiction; and

WHEREAS, Merchantville has determined in order to achieve economies and efficiencies that it would be cost effective and efficient to negotiate an agreement with Pennsauken for the maintenance and service of Merchantville vehicles and trucks on an “as needed” basis; and

WHEREAS, Pennsauken is prepared to accept the responsibility for the maintenance and service of Merchantville vehicles and trucks as agreed upon pursuant to the terms and conditions hereafter set forth; and

WHEREAS, Merchantville and Pennsauken intend by virtue of this document to set forth the terms and conditions of this Agreement; and

WHEREAS, the proper and respective municipal officials were authorized to execute this Shared Services Agreement pursuant to Resolutions of their respective governing bodies; copies of said Resolutions are attached hereto and made a part of this Agreement; and

NOW, THEREFORE, AND IN CONSIDERATION of the mutual promises set forth herein, the parties hereto agree as follows:

1. Term.

This Agreement shall be for a period including the balance of the calendar year 2013 and one (1) year commencing on January 1, 2014 through December 31, 2014, and may be renewed by consent of the parties for two (2) separate one year periods of: (a) January 1, 2015 through December 31, 2015; and (b) January 1, 2016 through December 31, 2016. This Agreement and any extensions thereto shall be cancelable upon sixty (60) days written notice by any party to this Agreement.

2. Service Provide by Pennsauken.

During the term of this Agreement, Pennsauken will provide to Merchantville all ordinary, necessary and appropriate labor, maintenance, repair and service to the vehicles and trucks

maintained by the Borough. These services shall include general preventative fleet maintenance. Said services will be provided by and at Pennsauken Public Works Department (“PWD”) facility in Pennsauken, New Jersey.

3. Scheduling and Execution of Service.

Pennsauken agrees to perform all service as set forth in Paragraph 2 above, in a workmanlike manner. All services will be scheduled by the PWD Supervisor, or his designee, in a manner which will provide efficiency and economy consistent with timeliness. When appropriate, the work for Merchantville will be carried out as an extension of similar fleet maintenance work on Township vehicles. The Borough recognizes that the Township has finite personnel and resource to provide the agreed upon services and the Township is entitled to make its own judgments about the amount of personnel, equipment and other resources it determines to have available and utilize in the future and the Township retains the right to decline worked requested by the Borough. The Township shall have full discretion to determine the level of services provided to the Borough, including but not limited to, such matters as personnel, parts and other resources used, and the priority, frequency, and level of services and maintenance activities in the Borough. The Township makes no representation that it will provide a given service with a given time frame, but will in all cases, and consistent with the forgoing, make its best effort to provide all services in a timely manner. In any event, it is the intention of the parties hereto, that the Township will provide substantially the same sort of service and maintenance for the Borough as it provides the Township. When acting for the Borough under this Agreement the employees of the DPW shall have the same privileges and immunities they have when acting within the Township.

4. Transportation Responsibilities.

Merchantville agrees to be solely responsible for the transportation and delivery of the vehicle or truck to Pennsauken's designated facility where the repairs will be performed. The Township will not in any way schedule, call or maintain any records for towing, transportation or delivery of the vehicle or truck.

5. Liaison and Reporting.

Merchantville agrees that its Director of Public Works or his designee shall be the official liaison to maintain contact with the PWD Superintendent or his designee, and to provide input concerning fleet maintenance needs of the Borough as determined by Borough Council. The Township's PWD will prepare and submit to the Borough's liaison monthly reports and monthly billing of the services provided.

6. Price and Manner of Payment.

Pennsauken shall charge Merchantville the rate of:

- A. Mechanic and Labor Rate, \$56.64 per hour.

The Township will charge the Borough the cost of parts, material and fluids used at the actual Township purchase price. The Township will maintain a separate time sheet for each Borough owned truck or vehicle serviced under this Agreement. Said time sheet shall documenting services provided and shall accurately report the labor time for all service rendered pursuant to this Agreement. Payment for services provided to the Borough under this Agreement shall be made monthly to the Township, as per monthly invoices submitted by the Township. As provided by N.J.S.A. 40:8A-7(b), in the event of any dispute as to the amount to be paid under the terms and conditions of this Agreement, the full amount to be paid in accordance with the schedule noted in this paragraph, shall be paid. If through subsequent negotiation, litigation or

settlement the amount due shall be determined, agreed to or adjudicated to be less than what was actually so paid; the Township shall promptly refund to the Borough the excess.

7. Audit.

Pursuant to the Single Audit Act of 1984, Pennsauken agrees to permit Merchantville and/or its agents to examine any and all records relevant to this Agreement and shall make the same available upon demand at a reasonable time and place for the purpose of auditing the records, reports and documents relative to this Agreement.

8. Indemnification.

Merchantville shall indemnify, hold harmless and defend Pennsauken, its elected officials, employees, officers and agents, from and against all liability, claims, suits, losses, damages, costs and demands, on account of bodily injury, including death or property damage, arising out of or connected with the performance of the services under this Agreement.

Pennsauken shall indemnify, hold harmless and defend Merchantville, its elected officials, employees, officers and agents, from and against all liability, claims, suits, losses, damages, costs and demands, on account of bodily injury, including death or property damage, arising out of or connected with the performance of the services under this Agreement.

9. Notice.

All communications that may be or are required to be given by either party to the other herein shall be in writing and by personal delivery or delivered or sent by prepaid registered mail to the parties at the following addresses:

If to the Township:

Township Clerk
Township of Pennsauken
5605 N. Crescent Blvd.
Pennsauken, New Jersey 08110

If to Merchantville:

Borough Clerk
Borough of Merchantville
1 West Maple Avenue
Merchantville, New Jersey 08109

10. Entire Agreement.

This Agreement contains the entire agreement of the parties and shall be binding on their respective executors, administrators, legal representatives, successors, and assigns. It is acknowledged that there are no side or oral Agreements relating to this undertaking set forth herein. This Agreement may not be amended or altered without the written consent of both parties hereto.

11. Waiver.

A waiver by any party of a breach or default by the other party of any provision of this Agreement shall not be deemed a waiver of future compliance therewith, and such provisions shall remain in full force and effect.

12. Captions.

All headings preceding the text of the several sections and paragraphs hereof are inserted solely for the convenience and reference of the parties and shall not constitute a part of this Agreement, nor shall they affect their meaning or interpretation thereof.

13. Severability.

If any provision of this Agreement shall be invalid or unenforceable, in whole or in part, such provision and this Agreement shall be deemed and construed to be modified or restricted to the extent that and in the manner necessary to render the same valid and enforceable, or shall be deemed excised from this Agreement as the case may require.

14. Modification.

Unless otherwise authorized by this Agreement, all modifications must be in writing and signed by both parties to be valid.

15. Definition of the Interest of the Parties.

It is expressly understood that Pennsauken and Merchantville are not partners or joint venturers for purposes of this Agreement. Merchantville agrees that is not and will neither hold itself out as, nor claim to be, an agent, officer, employee or a contractor of Pennsauken by reason hereof, and that it will not make any claim demand or application to or for any right or privilege applicable to an agent, director, officer, employee, or contractor of Pennsauken.

16. No Third Party Beneficiaries.

This Agreement is not intended to confer any benefits to any third party.

17. Jurisdiction and Venue.

This Agreement shall be governed by the law of the State of New Jersey and venue shall be appropriate in the state and federal courts of Camden County thereof.

18. Assignability.

This Agreement and all rights, duties and obligations contained herein may not be assigned without Pennsauken's prior written permission. Notwithstanding the foregoing, Merchantville reserves the option to contract with other providers for the services provided by

Pennsauken should the Borough deem it is in the best interest of the Borough. The Borough shall notify the Township in writing of the services by other providers.

19. Status of Township.

Pennsauken is performing its services under this Agreement as a public entity pursuant to the Shared Services Act, and not as a private independent contractor. The Township, and its employees, with respect to its services and other activities pursuant to this Agreement retain all privileges and immunities accorded to a public entity under the law, including all those afforded a public entity under the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq.

20. Affirmative Action.

The affirmative action provisions set forth in the documents attached hereto are incorporated herein and made a part hereof.

21. Funding.

In accordance with the provisions of N.J.S.A. 40A:11-15, this Agreement is subject to the availability and appropriation of sufficient funds in the year in which it is in effect.

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IN WITNESS WHEREOF, the parties hereto have placed their signatures and appropriate seals on the date and year mentioned in the face of this Agreement.

THE TOWNSHIP OF PENNSAUKEN

BY: _____
RICK TAYLOR, MAYOR

ATTEST:

GENE PADALINO
TOWNSHIP CLERK

I, Gene Padalino, Township Clerk for the Township of Pennsauken, do hereby certify the foregoing to be a true and correct copy of the Services Agreement adopted by Resolution of the Township of Pennsauken, at a meeting of said Township of Pennsauken on November ____, 2013 and that said Services Agreement was adopted by Resolution which passed by a majority vote of the Township Committee of the Township of Pennsauken.

GENE PADALINO
TOWNSHIP CLERK

IN WITNESS WHEREOF, the parties hereto have placed their signatures and appropriate seals on the date and year mentioned in the face of this Agreement.

THE BOROUGH OF MERCHANTVILLE

BY: _____
FRANK M. NORTH, MAYOR

ATTEST:

DENISE BROUSE,
BOROUGH CLERK

I, **DENISE BROUSE**, Borough Clerk for the Borough of Merchantville, do hereby certify the foregoing to be a true and correct copy of the Shared Services Agreement adopted by Resolution of the Borough of Merchantville, at a meeting of said Borough of Merchantville on November 18, 2013, and that said Shared Services Agreement was adopted by Resolution which passed by a majority vote of the Borough Council of the Borough of Merchantville.

DENISE BROUSE,
BOROUGH CLERK